

Application No. 09/841,282  
Amendment dated May 27, 2005  
Reply to Final Office Action dated February 28, 2005

Docket No. 1: 02-4709

### **REMARKS**

Applicant respectfully requests reconsideration of this application in view of the foregoing amendment and following remarks.

#### **Status of the Claims**

Claims 1, 2, 4, 6, 7, 10, 11 and 36-41 are pending in this application. Claims 1 and 36 are independent. Claims 1, 2, 4, 6, 7, 10 and 11 are allowed. Claims 36-41 stand rejected. By this Amendment, claims 1 and 36 are amended. Claims 37 and 38 are cancelled without prejudice or disclaimer. New claims 42 and 43 are added. No new matter has been added by this amendment.

#### **Allowable Subject Matter**

Claims 1, 2, 4, 6, 7, 10 and 11 have been allowed. The Examiner indicated that "a deformation amount of a projecting or recessed shape of each element is changed by adjusting a voltage to be impressed to the piezoelectric element, thereby controlling an intensity of reflected light" is allowable subject matter over the prior art.

Claim 1 has been amended to merely clarify the invention. Applicant believes that the amendment to claim 1 does not change the scope of the claim and subject matter of the claim indicated as allowable by the Examiner is maintained as it is.

#### **Rejections under 35 U.S.C. §102**

Claims 36-41 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,585,379 to Yokoyama et al. ("Yokoyama").

As indicated above, claims 37 and 38 have been cancelled rendering the rejections directed to these claims.

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Independent claim 36 has been amended for further clarification. In particular, amended claim 36 recites the "allowable subject matter" as indicated above, i.e., amended claim 36 recites that "wherein the intensity of light reflected and diffracted by said reflective diffraction grating is adjusted by adjusting a voltage to be impressed to the piezoelectric element."

Accordingly, amended claim 36, and claims dependent therefrom (i.e., claims 39 and 40) are believed in condition for allowance for at least the reasons discussed above.

Reconsideration and withdrawal of the rejection of claims 36, 39 and 40 under 35 U.S.C. §102(b) is respectfully requested.

New claims 42 and 43 are added to recite the claimed invention in an alternative manner. Specifically, each of claims 42 and 43 depends from claim 36 and claim 1, respectively, and recites that "wherein said plurality of reflecting surfaces are capable of acting as a flat mirror under the control of said piezoelectric element." Support for this aspect of the invention may be found, for example, at the first full paragraph of page 8 (i.e., lines 4-17) of the original specification. New claims 42 and 43 are accordingly believed to be allowable for at least similar reasons as for claims 1 and 36.

Applicant believes that the application as amended is in condition for allowance and such action is respectfully requested.